

REMARKS/ARGUMENTS

Claims 60-64, 69, and 70 were pending and were examined. All claims were rejected for obviousness as discussed in detail below. Reexamination and reconsideration of the claims, without amendment, are respectfully requested.

All examined claims were rejected over the combination of Evans '487 in view of Dror '402. Such rejections are respectfully traversed.

Independent claim 60, the only remaining independent claim, describes a method for delivering drug to a lesion. The method includes inflating a balloon to radially expand a scoring structure, where the scoring structure comprises metal scoring elements carried by the balloon. Balloon inflation engages the scoring elements against stenotic material in the lesion to radially penetrate the stenotic material. Drug is then released into the scored lesion to enhance delivery into the vessel wall.

The Examiner rejects claim 60, arguing among other things that the Evans '487 reference teaches expanding a balloon "to engage scoring elements against stenotic material in a lesion to cut stenotic material" relying on paragraphs 65 and 82 in Evans.

The Examiner further argues that no patentable weight has been given to the recitation of "delivering a drug to a blood vessel lesion . . . because the recitation occurs in the preamble."

Both these assertions by the Examiner are incorrect, and therefore the Examiner's rejection cannot be maintained.

With respect to Evans, Applicants are submitting a Declaration of Michael A. Evans, the first-named inventor on the Evans '487 publication. In the Declaration, Mr. Evans explains that the references to balloons in paragraphs 68 and 80 refer to emboli protection balloons which would be disposed distally to the shearing blades of the catheter structure. As such balloons must be distal to, and would certainly never within the shearing blades, inflation of the balloons could not expand the shearing blades as argued by the Examiner.

With respect to recitation of drug release in the preamble, Applicants wish to point out that the second step of claim 60 sets forth "releasing a drug into the scored lesion to

enhance delivery into the vessel wall.” This recitation, while similar to that in the preamble, is positively recited as a step of the method and must be given patentable weight.

For these reasons, the Examiner’s reliance on Evans is misplaced and neither Evans nor Dror, taken alone or together, teach the step of claim 60 that a balloon is inflated to expand a scoring structure comprising metal scoring elements to penetrate the stenotic material. Moreover, as neither Evans nor Dror teach releasing a drug into a scored lesion, the second step of method claim 60 is not taught in the art cited by the Examiner.

In view of these remarks and arguments, Applicants believe that independent claim 60, as well as claims 61-64, 69, and 70 are allowable over the art.

CONCLUSION

In view of the above amendments and remarks, Applicants believe that all pending claims are in condition for allowance and request that the application be passed to issue at an early date.

If for any reason the Examiner believes that a telephone conference would in any way expedite prosecution of the subject application, the Examiner is invited to telephone the undersigned at 650-326-2400.

Respectfully submitted,

James M. Heslin
Reg. No. 29,541

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 650-326-2400
Fax: 415-576-0300
JMH:jis
Attachment: Declaration of Michael A. Evans

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